

Checklist Item 3, Access to Poles, Ducts, and ROW

Section 10.8.4.1.1, 10.8.4.1.2, Exhibit D

As requested, WCom has reviewed the language in Section 10.8.4.1.1, 10.8.4.1.2, and disagrees with the arbitrary limits of 100 poles, 30 utility holes or 2 miles that USW is attempting to put on the pole attachment process. At first when talking with the USW lawyer he argued that there simply were physical constraints regarding a large order such as 500 poles, and that seemed reasonable. However, upon considering this issue further, I do not know of an exception in the Act to the 45 day requirement for access or denial of same, for "large orders". And in fact, the 45 day time is affirmed in 47 CFR 1.1403, without an exception. I think that we should insist on the 45 days regardless of how large the order is unless they can show us an exception in the Act or rules. If it is a large order, they must simply staff up.

Section 2.2 of Exhibit D also contains the "standard inquiry of 100 poles or fewer" limitation. Note that the language in all caps stating that the utility must either grant access or confirm denial in writing within 45 days following the date of inquiry in Section 2.2 is predicated on the "standard inquiry", which is unacceptable. I also think that we should add a sentence from 47 CFR 1.1403 after the 45 day sentence as follows: "The utility's denial of access shall be specific, shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability or engineering standards."

Section 10.8.4.3.

WCom has no problem with 10.8.4.3.

Section 10.8.4.4.

10.8.4.4 - Revise fifth sentence as follows: "CLEC must request such records, if at all, within sixty (60) calendar days following its receipt of invoice."

Revise the seventh sentence as follows: "Such request must be received within sixty (60) calendar days following CLEC's receipt of copies of records if CLEC has requested records under this paragraph, or within sixty (60) calendar days following receipt of invoice."

Add to end of eighth sentence the all caps language: "... whichever comes last, BUT IN NO EVENT LATER THAN 90 DAYS FOLLOWING THE REQUEST FOR CREDIT."

Also add to the end of last sentence the all caps: "... whichever comes last, BUT IN NO EVENT LATER THAN 90 DAYS FOLLOWING THE DENIAL."

Secton 10.8.5

WCom has no problem with 10.8.5

Checklist Item 7

Section 10.5.1.1.2 and 10.6.2.1

On a preliminary basis, I have been advised by my client that WCom will object to the "license" being treated as intellectual property. We are checking with our interllectual property attorneys to get more direction.

Regarding revocation langauge, I would propose the following be added for paragraphs 10.5.1.1.2 and 10.6.2.1 after the previous inserted language by U S WEST.

A CLEC will be deemed to have misued this information if it uses it for those prohibited purposes stated in paragraph 10.6.2.3. However, prior to revoking such license, U S WEST shall provide 30-days notice to CLEC advising of the alleged violation of the license granted, during which time CLEC shall have an opportunity to cure the alleged violation. Should CLEC contest the alleged violation, then CLEC shall so advise U S WEST within 30 days after receipt of notice of the alleged violation. The matter will then be promptly submitted to dispute resolution under Section 5.18 of this SGAT. While the matter is pending, U S WEST shall not revoke the license granted until the matter is finally decided under the dispute resolution process either by agreement or after relevant appeal processes have been exhausted.

Checklist Item 13

4.11 "Central Office Switch" means a switch used to provide Telecommunications Services, including, but not limited to:

- 4.11.1 "End Office Switches" which are used to terminate end user station loops or the equivalent for the purpose of interconnecting to each other and to trunks; and
- 4.11.2 "Tandem Office Switches" which are used to connect and switch trunk circuits between and among other Central Office Switches. CLEC switch(es) shall be considered Tandem Office Switch(es) to the extent such switch(es) actually serve(s) the comparable geographic area as U S WEST's Tandem Office Switch or is used to connect and switch trunk circuits between and among other Central Office Switches. Access tandems provide connections for exchange access and toll traffic, while local tandems provide connections for EAS/Local traffic.

SGAT Paragraph 7.3.7.1

As you recall, we discussed the proposal in this paragraph to apply a tandem switching and a tandem transport/transmission charge to the originating party when USW is performing a transit function. As WCom indicated, we have no issue with the application of the tandem switching charge for the transit function being performed by USW. However, in this situation, the traffic is arriving at the USW tandem for switching (i.e. transit) to a third party via an interconnection trunk that has been jointly provisioned and paid for by USW and the CLEC. Therefore, we believe that further payment for transport in the form of a tandem transport/transmission charge would not be appropriate. USW agreed to review this matter and provide us with a position.

SGAT Paragraph 7.3.8

As a result of our discussions, I believe that we are in agreement as to how to deal with no-CPN traffic as between USW and the CLEC. We discussed the issue of how to deal with traffic, which is passed to CLEC by USW as a transit provider. We also agreed that SGAT Paragraph 7.3.9, which appeared to point the CLEC to the NPAC for assistance in identifying the carrier sending no-CPN traffic was misplaced and that NPAC was no solution for this issue. I have reviewed the present language with our Carrier Billing group, and we would like to propose an additional sentence at the end of the present paragraph, to read,

“U S WEST will provide to CLEC, upon request, information to demonstrate that U S WEST’s portion of No-CPN traffic does not exceed 5% of the total traffic delivered.”

SGAT Paragraphs Entrance Facilities (7.3.1.1.3.1), Direct Trunked Transport (7.3.2), EICT (7.3.1.2.1), Muxing (7.3.2.3) and NRCs (7.3.3) Proportional Use Billings for Interconnection Facilities - As we discussed, WorldCom would like USW to reconsider its position on the billing of interconnection facilities based on the proportional use that each party makes of these trunks. As USW is aware, FCC Rule 51.709 (b) provides that the “rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carrier’s networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier’s network. Such proportions may be measured during peak periods.”

In USW’s proposed SGAT at Paragraph’s 7.3.1.1.3.1 (Entrance Facilities) and 7.3.2.2 (Direct Trunk Transport), USW proposes that proportional use be measured after excluding ISP traffic. WorldCom understands that USW’s position is that ISP traffic is “interstate” or “non-local traffic”. As a result, USW does not believe that ISP traffic should be subject to the traffic sensitive billings for local call termination or reciprocal compensation as “local” traffic. As we discussed, WorldCom and USW will simply have to agree to disagree on this subject.

However, our disagreement about whether a traffic sensitive call termination/reciprocal compensation rate should apply to ISP traffic should have no bearing on the issue of the shared cost of the interconnection trunking dedicated to the transmission of traffic between the two parties network, which is assessed on a flat rated monthly charge. This traffic, as well as all other types of traffic flowing between the two networks, is in fact utilizing capacity on these interconnection trunks and, under the FCC Rule, that traffic should be included in making a determination as to the assessment of charges based on the proportional use of these trunks. If USW were to agree with WorldCom's position, WorldCom would agree that USW is not waiving its position or otherwise conceding that ISP traffic sent over these trunks should not be compensable under the traffic sensitive billing for call termination/reciprocal compensation. We also discussed briefly WorldCom's position that, in addition to the Entrance Facility and Direct Trunk Transport, we believe that the Expanded Interconnection Channel Termination (EICT - Paragraph 7.3.1.2.1) and Muxing (Paragraph 7.3.2.3) constitute facilities used for the transmission of traffic between the two parties network under the FCC Rule 51.709(b), and therefore should also have costs shared based on proportional use. Furthermore, as you know, the sharing of costs for EICT and Muxing is contained in our present interconnection agreement. Logically, Non-Recurring charges for these Rule 51.709(b) facilities should also be shared based on proportional use. We have drafted the following language as an amendment to the Arizona SGAT language (where we agreed to true up proportional use billings after the first Quarter) for your consideration. This language would be inserted at SGAT Paragraphs 7.3.1.1.3.1 (Entrance Facility); 7.3.2.2 (Direct Trunk Transport) 7.3.1.2.1 (EICT), 7.3.2.3 (Muxing) and 7.3.3 (NRCs on interconnection Trunks);

“The provider of the two-way facility will initially share the cost of the facility by assuming an initial relative use factor of 50% for a minimum of one quarter. The nominal charge to the other Party for the use of the facility, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other party will be according to this initial relative use factor for a minimum of one quarter. The initial relative use factor will continue for both bill reduction and payments until the parties agree to a new factor, based on actual minutes of use data to substantiate a change in that factor. Once negotiation of the new factor is finalized, the Parties will retroactively true-up previous charges and the bill reductions and payments will apply going forward, for a minimum of one quarter. By agreeing to this interim solution, the parties do not waive their positions on the nature of traffic delivered to Enhanced Service Providers.”

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